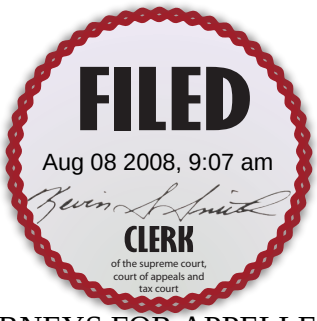

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IN THE
COURT OF APPEALS OF INDIANA

LAZARUS TURNER WHITE, II,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 48A04-0711-CR-641
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MADISON SUPERIOR COURT
The Honorable Dennis D. Carroll, Judge
Cause No. 48D01-0706-FB-00115

AUGUST 8, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARTEAU, Senior Judge

STATEMENT OF THE CASE

Appellant-Defendant Lazarus White appeals the sentence imposed after his pleas of guilty to Class B felony burglary and Class D felony theft. We affirm.

ISSUE

White raises one issue for our review, which we restate as: Whether the sentences imposed were inappropriate.

FACTS AND PROCEDURAL HISTORY

On May 23, 2007, White broke into and entered Dawn East's house located in Madison County, Indiana. White carried a broken rake handle and threatened East. He took East's DVD player and several DVDs and then left East's house.

White was subsequently arrested and charged with Class B felony robbery, Class B felony burglary, and Class D felony theft. White and the State entered into a plea agreement whereby White would plead guilty to the last two offenses, the State would dismiss the robbery charge, and the State would not pursue a habitual offender charge. The plea agreement capped any executed time imposed at fifteen years.

The trial court sentenced White to incarceration for nineteen years on the burglary conviction and two years on the theft conviction, with the sentences to run concurrently. The trial court ordered fourteen years executed and five years suspended to formal probation. White now appeals.

DISCUSSION AND DECISION

White contends that imposition of a fourteen-year executed sentence is inappropriate. He notes that Ind. Code § 35-50-2-6 provides for a sentencing range of six to twenty years, with an advisory sentence of ten years for a Class B felony. He further notes that Ind. Code § 35-50-2-7

provides for a sentencing range of six months to three years, with an advisory sentence of one and one-half years for a Class D felony. He argues that the maximum possible sentence should be reserved for the "very worst offenses and offenders." Appellant's Brief at 7 (citing *Bluck v. State*, 716 N.E.2d 507, 516 Ind. Ct. App. 1999)).

A sentence authorized by statute will not be revised unless the sentence is inappropriate in light of the nature of the offense and the character of the offender. Indiana Appellate Rule 7(B). We must refrain from merely substituting our opinion for that of the trial court. *Sallee v. State*, 777 N.E.2d 1204, 1216 (Ind. Ct. App. 2002), *trans. denied*. In determining the appropriateness of a sentence, a court of review may consider any factors appearing in the record. *Roney v. State*, 872 N.E.2d 192, 206 (Ind. Ct. App. 2007), *trans. denied.* The "nature of the offense" portion of the appropriateness review concerns the advisory sentence for the class of crimes to which the offense belongs; therefore, the advisory sentence is the starting point in the appellate court's sentence review. *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007), *clarified on rehearing*, 875 N.E.2d 218 (Ind. 2007). The "character of the offender" portion of the sentence review involves consideration of the aggravating and mitigating circumstances and general considerations. *Williams v. State*, 840 N.E.2d 433, 439-40 (Ind. Ct. App. 2006).

The record shows with regard to the nature of the offense that White used a rake handle to threaten East and her four children. The offense of burglary generally affects the feeling of security that a person has in the safety and security of her own residence. The presence of small children compounds the fear felt by the victim. We cannot say that the nature of the offense militates against the imposition of the fourteen-year executed sentence in the present case.

With regard to the character of the offender, we note that the twenty-five-year-old White has a long juvenile history and at least four prior Class D felony convictions as an adult. He also

has a number of probation violations. The instant crimes indicate that White's criminal activity was increasing both in the type and severity of offenses he commits. While White may not be the worst offender, the trial court did not sentence him to the maximum sentence that could be imposed under the plea agreement.

In his appellant's brief, White notes that he accepted responsibility for his crimes by pleading guilty, he showed remorse by writing East a letter of apology, and he testified that his drug addiction was the underlying cause of his criminal conduct. At the sentencing hearing, the trial court noted that even though it was classifying White's guilty plea as a mitigating circumstance, the plea was of substantial benefit to White. A guilty plea does not rise to the level of significant mitigation when the defendant receives a substantial benefit from the plea. *See Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005), *trans. denied.*. Furthermore, the trial court acknowledged the letter and provided for in-patient treatment while White was on probation. We cannot conclude that the sentence was inappropriate.

CONCLUSION

White has failed to establish that his sentence is inappropriate under App.R. 7(B).

Affirmed.

KIRSCH, J., and CRONE, J., concur.